

REMARKS

In response to the above-identified Final Office Action, the Applicants amend the application and seeks reconsideration thereof. In this response, Applicants amend claims 3-5, 12 and 20. Applicants do not cancel any claims or add any new claims. Accordingly, claims 1-26 are pending.

I. Claims Rejected Under 35 U.S.C. § 112

Claims 3 and 4 stand rejected under 35 U.S.C. § 112, because the Examiner asserts that the term or the phrase "the at least one" has insufficient antecedent basis. Applicants have amended claims 3 and 4 to remove this phrase. Accordingly, reconsideration and withdrawal of the indefiniteness rejection of claims 3 and 4 are requested.

II. Objections to the Claims

Claims 5, 12 and 20 stand objected to for containing informalities. The Examiner points out that these claims include the term "encrypted" where the term "encrypt" would be appropriate. Applicants have amended these claims as suggested by the Examiner. Accordingly, reconsideration and withdrawal of the objection to claims 5, 12 and 20 are requested.

III. Claims Rejected Under 35 U.S.C. § 102

Claims 1-9, 11-14, 16, 18-21, 23, 24 and 26 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,748,539 issued to Lotspiech (hereinafter "Lotspiech")
Applicants respectfully disagree for the following reasons.

To anticipate a claim, the Examiner must show that a single reference teaches each of the elements of that claim. In regard to claims 1, 11 and 18, these claims include the elements of "an encryption subsystem housing a storage device to encrypt data access from a storage medium," "the storage device encrypting data read from the storage medium," and "said encryption logic encrypts said data accessed from said storage medium using said bus key prior to transmitting the encrypted data via a data bus to a host device." Thus, each of the independent claims includes

elements stating that data read from a storage medium is encrypted in the storage device prior to transmission over a data bus or data from a storage medium is encrypted prior to transmission to a host device (i.e., a processor). Lotspiech does not teach these elements of claims 1, 11 and 18. Rather, Lotspiech teaches a system where encryption of data is carried out by a processor in a computer system not by an encryption subsystem in a storage device. See col. 3, lines 44-56. The system taught by Lotspiech is computer software executed by a processor. See col. 3, lines 58 through col. 4, line 11. Thus, for the system taught by Lotspiech to encrypt data from a storage medium, this data must be sent over a data bus to the processor to be encrypted. Thus, Lotspiech does not teach an encryption subsystem in a storage device that encrypts data retrieved from a storage medium before that data is sent over a bus to a host device such as a computer processor. Thus, Lotspiech does not teach each of the elements of claims 1, 11 and 18.

In regard to claims 2-9, 12-14, 16, 19-21, 23, 24 and 26, these claims depend from independent claims 1, 11 and 18 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claims 1, 11 and 18, these claims are not anticipated by Lotspiech. Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims are requested.

IV. Claims Rejected Under 35 U.S.C. § 103

Claims 10, 17, 22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Lotspiech in view of U.S. Patent No. 6,751,321 issued to Kato, et al. (hereinafter "Kato").

To establish a *prima facie* case of obviousness, the Examiner must show that the cited references teach or suggest each of the elements of the claims. In regard to claims 10, 17 and 22, these claims depend from independent claims 1, 11 and 18 and incorporate the limitations thereof. Thus, for the reasons mentioned above in regard to independent claims 1, 11 and 18, Lotspiech does not teach or suggest each of the elements of these claims. Specifically, Lotspiech does not teach an encryption subsystem in the storage device to encrypt the data retrieved from a storage

medium prior to transmission over a data bus to a host. Kato does not cure these defects of Lotspiech. The Examiner has not identified and Applicants have been unable to discern any part of Kato that teaches or suggests these elements of claims 1, 11 and 18. Therefore, Lotspiech in view of Kato does not teach or suggest each of the elements of claims 10, 17 and 22. Accordingly, reconsideration and withdrawal of the obviousness rejection of claims 10, 17 and 22 are requested.

Further, the Examiner has improperly combined Kato with Lotspiech. The Examiner admits that Lotspiech does not explicitly teach "said number number generator is a random number generator residing within the host device." The Examiner seeks to combine the random number generator of Kato with the system of Lotspiech. However, Lotspiech teaches away from such a combination. Lotspiech teaches a computer software system implemented media file check-in and check-out system based in a computer system in a kiosk. See col. 3, line 44 through col. 4, line 11 of Lotspiech. Kato teaches a random number generator in a dedicated audio video (A/V) device. See col. 5, lines 30-33 of Kato. Modifying Lotspiech to use such a random number generator that is a hardware device situated in a dedicated (A/V) would change the fundamental operating principle of Lotspiech from a software system on a general computer system to a hardware device on a dedicated A/V system. See MPEP § 2143.01 "The Proposed Modification Cannot Change the Principle of Operation of a Reference." Therefore, Lotspiech cannot be combined with Kato to teach or suggest each of the elements of claims 10, 17 and 22. Accordingly, reconsideration and withdrawal of the obviousness rejection of these claims are requested.

Claims 15 and 25 stand rejected under 35 U.S.C. § 103 as being unpatentable over Lotspiech in view of U.S. Patent Application No. 2002/0015494 applied for by Nagai, et al. (hereinafter "Nagai").

Claims 15 and 25 depend from independent claims 11 and 18 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claims 11 and 18, Lotspiech does not teach or suggest each of the elements of these claims. Further,

Nagai does not cure these defects of Lotspiech. The Examiner has not indicated and Applicants have been unable to discern any part of Nagai that teaches or suggests an encryption subsystem in a storage device to encrypt data prior to being transmitted over a data bus to a host device. Therefore, Lotspiech in view of Nagai does not teach or suggest each of the elements of claims 15 and 25.

Further, neither Lotspiech nor Nagai teach the element in claim 15 of a "storage device encrypting said descramble key read from said storage medium with said bus key generated by said storage device and sending said encrypted descramble key to the host device." The Examiner cites paragraph [0055] of Nagai as teaching these elements of claim 15. However, Applicants have reviewed paragraph [0055] of Nagai and found therein only a discussion of how master keys are distributed to manufacturers of descramble devices and the storage of an encrypted disk key set in the lead in area of a disk. Applicants have been unable to discern any discussion of encrypting a descramble key in a storage device that is read from a storage medium with a bus key and sending the encrypted descrambled key to a host device.

In regard to claim 25, the Examiner admits that Lotspiech does not teach "said storage medium is embodied in the form of a DVD containing scrambled content." The Examiner relies on Nagai for teaching these elements of claim 25. However, the Examiner has improperly combined Nagai with Lotspiech to teach these elements of claim 25. Lotspiech teaches a system requiring a rewritable flash memory. See col. 3, line 1-16. Substituting a DVD for a flash memory would change the fundamental operating principle of Lotspiech. See MPEP § 2143.01 "The Proposed Modification Cannot Change the Principle of Operation of a Reference." A DVD is not a rewritable medium. Thus, it is incompatible with the system taught by Lotspiech. Therefore, Lotspiech cannot be combined with Nagai to teach or suggest each of the elements of claims 15 and 25. Accordingly, reconsideration and withdrawal of the obviousness rejection of these claims are requested.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 1-26 patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

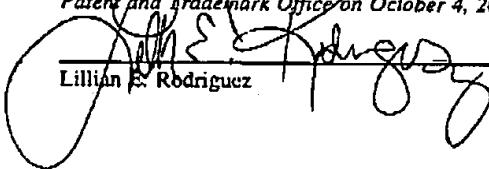
Dated: 10/4, 2004

12400 Wilshire Blvd.
Seventh Floor
Los Angeles, California 90025
(310) 207-3800


Jonathan S. Miller, Reg. No. 48,534

CERTIFICATE OF TRANSMISSION:

I hereby certify that this paper is being facsimile transmitted to the U.S. Patent and Trademark Office on October 4, 2004.


Lillian E. Rodriguez

10-4-04
October 4, 2004